

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re HAIN CELESTIAL HEAVY
METALS BABY FOOD LITIGATION

Case No.: 2:21-CV-0678-JS-AYS

This Document Relates To:
ALL ACTIONS

**DECLARATION OF JEFFREY S. GOLDENBERG
IN SUPPORT OF MOTION TO APPOINT INTERIM LEAD COUNSEL,
INTERIM LIAISON COUNSEL, AND INTERIM EXECUTIVE COMMITTEE**

I, Jeffrey S. Goldenberg, declare pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am one of the founding partners of the firm Goldenberg Schneider, LPA (“GS”) and make this Declaration in support of Plaintiffs’ Motion For Appointment of Interim Lead Counsel, Liaison Counsel and Executive Committee Pursuant to Fed. R. Civ. P. 23(g) (“Motion”).

2. Through the Motion I seek appointment as a member of the Interim Executive Committee.

3. I also support the appointment of the following attorneys as Interim Lead Counsel: (1) Michael Reese (Reese LLP) as Interim Co-Lead Counsel; (2) Melissa R. Emert (Kantrowitz, Goldhamer & Graifman, P.C.) as Interim Co-Lead Counsel; (3) Jason P. Sultzer (The Sultzer Law Group P.C.) as Interim Liaison Counsel; (4) Gayle M. Blatt (Casey Gerry Schenk Francavilla Blatt & Penfield LLP) as an Interim Executive Committee Member; (5) Charles E. Schaffer (Levin Sedran & Berman LLP) as an Interim Executive Committee Member; (6) Gary E. Mason (Mason Lietz & Klinger LLP) as an Interim Executive Committee Member; and (7) Jonathon Shub (Shub Law Firm LLC) as an Interim Executive Committee Member.

4. Attached hereto as Exhibit A is a true and accurate copy of my firm's resume.
5. Attached hereto as Exhibit B is a true and accurate copy of my CV.
6. I am one of the co-founders of Goldenberg Schneider, L.P.A. and have been litigating complex civil actions for over twenty-four years.
7. During the State Attorney General tobacco litigation battles, I served as Special Counsel representing the State of Ohio against the tobacco industry and was part of the litigation team that achieved an unprecedented \$9.86 billion settlement for Ohio taxpayers. This remains the largest settlement in Ohio history. See *State of Ohio, ex rel., Betty D. Montgomery v. Philip Morris, Inc. et al.*, No. 97-CVH05-5114, (Ohio Ct. Com. Pl. Franklin).
8. I along with co-counsel investigated and initiated the diesel emissions fraud litigation against Daimler Chrysler and Bosch involving certain Mercedes vehicles containing a Blue-Tec diesel engine. *Lynevyeh v. Mercedes-Benz USA, LLC*, No. 2:16-cv-881 (D.N.J.). Plaintiffs in that case allege, based upon detailed engine testing performed by class counsel, that these vehicles emitted substantially more NOx and other pollutants during real world driving conditions because Mercedes and Bosch installed illegal defeat devices to tamp down emission control systems. I serve as a member of the Executive Committee. This litigation recently settled (preliminary approval granted in October 2020) offering substantial cash payments up to \$3,500 to each vehicle owner. The settlement, valued at over \$700 million, also obligates Mercedes to implement certain changes so that each vehicle's emission system operates appropriately.
9. Currently, I serve as Lead Counsel in *Culbertson et al v. Deloitte Consulting LLP*, Case No. 1:20-cv-03962-LJL (SDNY), a data exposure case involving approximately 250,000 unemployment applicants whose personal information was exposed when they applied for

certain Pandemic Unemployment Assistance benefits through the Ohio, Illinois, and Colorado websites designed by Deloitte.

10. In addition, I currently serve on the Executive Committee in the recently settled *In Re: Hill's Pet Nutrition, Inc., Dog Food Products Liability Litig.*, 2:19-md-02887-JAR-TJJ (D. Kan.). This case recently settled for \$12.5 million, offering valuable compensation for pet owners nationwide who purchased recalled dog food that sickened and poisoned thousands of dogs due to the presence of toxic levels of Vitamin D.

11. I am also serving as co-lead counsel in *Conti v. American Honda Motor Co., Inc.*, No. 2:19-cv-2160 (C.D. Cal.), a nationwide class action alleging that Honda knowingly sold 2018-2019 Honda Odyssey and 2019 Honda Pilot and Passport vehicles with defective infotainment systems, and *Banh v. American Honda Motor Company, Inc.*, No. 2:19-cv-05984-RSWL-AS (C.D. Cal.), a nationwide class action alleging that Acura knowingly sold certain 2019 and 2020 Acura vehicles with defective infotainment systems. Both of these cases recently settled on a nationwide class basis covering nearly 600,000 vehicles.

12. I have served as lead, co-lead, or class counsel in numerous successful MDLs and complex class actions. For example, in *In Re: Ford Motor Co. Spark Plug and 3-Valve Engine Products Liability Litigation*, MDL No. 2316, No. 1:12-MD-2316 (N.D. Ohio), I served as co-lead counsel for a nationwide class comprised of approximately 2 million Ford vehicle owners who purchased or leased vehicles containing a 5.4 liter 3-valve engine equipped with defective spark plugs and related engine defects. On January 26, 2016, after Plaintiffs defeated Ford's motion for summary judgment, Judge Benita Pearson of the Northern District of Ohio granted final approval to a nationwide settlement that provided reimbursement to class members for expenses related to spark plug replacement.

13. I also successfully litigated one of the earliest major privacy and data theft class actions, *In Re: Department of Veterans Affairs (VA) Data Theft Litigation*, MDL No. 1796, No. 1:06-mc-00506 (D.D.C.). My firm filed the first nationwide class action on behalf of more than 18 million veterans and current military members impacted by the August 2006 theft of sensitive personal data. I along with my co-counsel (including Gary Mason) successfully settled the case for \$20 million.

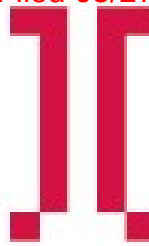
14. I also served as co-lead counsel and certified three nationwide classes in a consumer fraud class action on behalf of purchasers of herbal supplements for false and unproven claims and deceptive credit card charging practices. The case, *Parker v. Berkeley Premium Nutraceuticals*, No. 04 CV 1903 (Ohio C.P. Montgomery), was successfully resolved with a multimillion-dollar settlement that preserved class members' rights to recover additional funds from the nearly \$30 million that the United States Attorney General seized from the defendant and its owner in a civil forfeiture action. I doggedly pursued the forfeited funds and eventually recovered an additional \$24 million for the victims by prosecuting one of the first successful class-wide Petitions for Remission through the federal forfeiture proceedings.

15. I also served as lead counsel in *Shin v. Plantronics, Inc.*, No. 5:18-cv-5626 (N.D. Cal.), a nationwide class action brought on behalf of more than 1.2 million consumers who purchased defective Plantronics BackBeat FIT wireless headphones. The parties reached a nationwide settlement providing cash payments to the Class.

Dated: May 26, 2021
Cincinnati, Ohio

/s/ Jeffrey S. Goldenberg
Jeffrey S. Goldenberg
GOLDENBERG SCHNEIDER, LPA

EXHIBIT 1



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GOLDENBERG SCHNEIDER, L.P.A. was founded in 1996 and focuses on prosecuting actions primarily on behalf of plaintiffs in complex civil litigation and class actions. The subject matter of the Firm's past and current representations is broad, ranging from consumer protection actions to privacy protection actions to employment and labor cases that include ERISA and FLSA, to actions for antitrust, defective products, and long-term care insurance. The firm's attorneys are experienced in every level of the state and federal judicial systems in Ohio and the country.

The Firm has demonstrated its capability to successfully represent governmental entities, corporations, and individuals in the most complex types of litigation. Founding partner Jeff Goldenberg served as special counsel to the Ohio Attorney General in prosecuting Ohio's Medicaid recoupment action against the tobacco industry and has served as lead or co-lead counsel on numerous nationwide class actions. The tobacco Medicaid recoupment litigation settled in 1999, resulting in a recovery to the State of Ohio of more than \$9.86 billion. Setting aside the substantial, if not immeasurable non-economic components of the settlement, which curb youth smoking and addiction, the settlement's financial proceeds are a multiple of twelve times larger than the prior largest Ohio-based settlement.

Class actions in which one or more of the Firm's attorneys currently serves or served as class counsel include the following:

- *Deloitte Consulting Pandemic Unemployment Assistance Data Breach Litigation* – Goldenberg Schneider was recently appointed interim lead counsel to represent Plaintiffs and the putative class of several hundred thousand Covid-19 Pandemic Unemployment Assistance (“PUA”) applicants from Ohio, Colorado and Illinois whose sensitive personal information was made available to third parties without their authorization. Plaintiffs allege that Deloitte Consulting designed, operated and maintained the PUA systems which resulted in the unauthorized exposure. The case is pending in federal district court for the Southern District of New York before Judge Lewis J. Liman.

- *In Re: Veterans' Administration Data Theft Litigation* – Goldenberg Schneider served as co-lead counsel for a nationwide class of approximately 20 million veterans and current members of the military who were impacted by the August 2006 theft of personal data. Multiple actions were consolidated by the Panel on Multidistrict Litigation and sent to the Federal District Court in the District of Columbia. This action was successfully resolved with a \$20,000,000 settlement.
- *Estep v. J. Kenneth Blackwell, Ohio Secretary of State* – Goldenberg Schneider served as co-lead counsel on this class action against former Ohio Secretary of State, Ken Blackwell, based upon a violation of privacy rights when personal information was unlawfully disclosed in public records accessible through the Secretary's website. The settlement required the Secretary of State to dramatically improve the protection of social security numbers.
- *In re: Google Inc. Street View Electronic Communications Litigation* - In 2010, Goldenberg Schneider and co-counsel filed the first nationwide class action lawsuit against Google for violating the Federal Wiretap Act. The complaint alleges that Google routinely used Google Street View vehicles equipped with special hardware and software "snoopers" and "sniffers" to illegally intercept and record wireless electronic communications. In 2011, the Court denied Google's motion to dismiss the federal wiretapping claim, ruling that plaintiffs stated a viable claim and that none of the statutory exemptions apply to Google's actions. Google appealed to the Ninth Circuit which affirmed the denial. The litigation recently settled for \$13 million.
- *Navy Federal Credit Union TCPA Litigation* – Goldenberg Schneider serves as co-lead counsel in this nationwide class action alleging that Navy Federal Credit Union violated the Telephone Consumer Protection Act by repeatedly texting non-customers without authorization. Goldenberg Schneider successfully resolved this litigation recently through the creation of a \$9,250,000 common fund for the benefit of the class. Judge Leonie M. Brinkema of the Federal Court located in the Eastern District of Virginia granted final approval to the settlement on October 20, 2020. Each valid claimant will receive at least \$500.
- *In Re: Ford Motor Co. Spark Plug and 3-Valve Engine Products Liability Litigation* – Goldenberg Schneider served as co-lead counsel for a national class comprised of

approximately 4 million Ford vehicle owners who purchased or leased vehicles containing a 5.4 liter 3-valve engine equipped with defective spark plugs and related engine defects. On January 26, 2016, after Plaintiffs had defeated Ford's motion for summary judgment, Judge Benita Pearson of the Northern District of Ohio granted final approval of a nationwide settlement that provided reimbursement to class members for expenses related to spark plug replacement.

- *Acura RDX Infotainment System Litigation* - Goldenberg Schneider filed a nationwide class action alleging that Honda knowingly sold its 2019 and 2020 Acura RDX vehicles with defective infotainment systems. The infotainment systems in these vehicles behave erratically, malfunctioning, freezing, and creating a safety hazard and distraction. The court denied in large part Defendant's motion to dismiss. Following substantial discovery, the Court certified a class of California purchasers of these vehicles. Goldenberg Schneider and co-counsel Hagens Berman Sobol Shapiro recently negotiated a nationwide class settlement and anticipate filing for preliminary approval in February 2021.
- *Vicki Linneman, et al., v. Vita-Mix Corporation* - Goldenberg Schneider served as Class Counsel in this nationwide class action alleging that certain Vita-Mix blenders deposit tiny shards of polytetrafluoroethylene (PTFE), a Teflon-like substance, into foods during use. Goldenberg Schneider and co-counsel successfully settled the litigation allowing class members to choose between (1) a free replacement blade assembly that does not fleck (valued at over \$100) or (2) a gift card valued at \$70.00. About 5 million class members were eligible for these benefits.
- *Shin v. Plantronics, Inc.* – Goldenberg Schneider serves as Lead Class Counsel in this nationwide class action on behalf of more than 1.2 million consumers who purchased defective Plantronics BackBeat FIT wireless headphones. Following oral argument on Defendant's motion to dismiss, Goldenberg Schneider and co-counsel successfully resolved the litigation on a nationwide class basis through mediation. The court granted final approval to the settlement in January 2020.
- *Ulyana Lynevykh v. Mercedes-Benz USA, LLC* – Goldenberg Schneider along with Hagens Berman Sobol Shapiro initiated this lawsuit against Mercedes and Bosch alleging that these defendants knowingly programmed Mercedes' Clean Diesel BlueTEC vehicles

to emit illegal and dangerous levels of nitrogen oxide (NO_x) in virtually all real world driving conditions, and equipped the vehicles with a “defeat device.” Mr. Goldenberg serves on the Executive Committee. Goldenberg Schneider and its co-counsel initiated this litigation nearly six months before the U.S. EPA and the California Air Resources Board began their investigation and eventual enforcement actions. A nationwide settlement with Defendant Mercedes valued at over \$700 million for the benefit of defrauded consumers was recently announced in August 2020.

- *City of Cincinnati Pension Litigation* – Goldenberg Schneider and its co-counsel, with the assistance of U.S. District Court Judge Michael Barrett, successfully resolved a series of cases relating to the City of Cincinnati Retirement System, known as the CRS. Judge Barrett granted final approval of the historic and landmark Settlement Agreement on October 5, 2015. The settlement comprehensively reforms the CRS, establishes a consistent level of City funding, and reinstates several key provisions that were eliminated in 2011 changes for employees who were vested in the plan at that time. The settlement benefits for the Current Employees Class members, for whom Goldenberg Schneider was approved as Class Counsel, are valued at approximately \$50 million.
- *Bower v. MetLife* – Goldenberg Schneider served as co-lead class counsel on behalf of a nationwide class of beneficiaries of the Federal Employees Group Life Insurance (FEGLI) Policy, the world’s largest group life insurance program. Following the Court’s Order certifying the nationwide Class, the case was settled in 2012 for \$11,500,000.
- *In Re: OSB Antitrust Litigation* – Goldenberg Schneider served on the trial team in a case that alleged illegal collusion and cooperation among the oriented strand board industry. The case was resolved through a series of settlements that collectively exceeded \$120,000,000.
- *Parker v. Berkeley Premium Nutraceuticals* – Goldenberg Schneider served as co-lead counsel and certified three nationwide classes in a consumer fraud class action on behalf of purchasers of herbal supplements for false and unproven claims and deceptive credit card practices. This case was successfully resolved with a settlement valued in the millions of dollars. Moreover, class members retained all rights to recover a portion of the nearly \$30 million that the U.S. Attorney General seized in a civil forfeiture action. Goldenberg Schneider then recovered an additional \$24,000,000 for the victims by

prosecuting a successful class-wide Petition for Remission through the forfeiture proceedings.

- *Cates v. Cooper Tire & Rubber Company/ Johnson v. Cooper Tire & Rubber Company* – Goldenberg Schneider served as co-lead counsel for a class of more than a thousand Cooper Tire retirees who claimed that they were entitled to lifetime health care benefits. Goldenberg Schneider secured a judgment on the pleadings, certified the class, and ultimately resolved the case through a settlement valued at over \$50,000,000.
- *In Re: Consolidated Mortgage Satisfaction Cases* – Goldenberg Schneider served as lead counsel on behalf of Ohio homeowners against some of the largest national and Ohio banking and lending institutions for their failure to timely record mortgage loan payoffs. The Firm was able to consolidate all twenty actions before one trial judge and successfully upheld all the class certifications before the Ohio Supreme Court. These cases were resolved through multiple settlements valued at millions of dollars.
- *In re: Verizon Wireless Data Charges Litigation* – Goldenberg Schneider filed the first nationwide class action challenging Verizon Wireless' improper \$1.99 data usage charges to certain pay-as-you-go customers. Goldenberg Schneider, as a member of the Plaintiffs Advisory Committee, played an active role in this litigation which resulted in benefits to the Class in excess of \$50,000,000 in refunds and reimbursement payments.
- *Daffin v. Ford Motor Company* – Goldenberg Schneider and its co-counsel successfully certified an Ohio statewide class on behalf of all Ohio purchasers or lessors of 1999 and 2000 model year Mercury Villager Minivans. The Sixth Circuit upheld the class certification, and the case was resolved through a settlement. The Sixth Circuit decision was one of the first to recognize diminished value as a viable damage model.
- *Meyer v. Nissan North America* – Goldenberg Schneider served as co-lead counsel on behalf of thousands of Nissan Quest minivan owners throughout the United States. The suit alleged that the Quest minivan developed dangerous levels of carbon deposits in the accelerator system causing the gas pedal to stick, resulting in a roadway safety hazard including documented accidents and injuries. The case was resolved by a nationwide settlement that included the application of the vehicle warranty to remedy the problem as well as a refund of prior repair costs.

- *Continental Casualty Long Term Care Insurance Litigation* (“Pavlov Settlement”) - Goldenberg Schneider served as Lead Class Counsel in this litigation on behalf of certain CNA long term care policyholders nationwide whose claims for stays at certain facilities were wrongly denied based upon a non-existent 24/7 on-site nursing requirement. The Federal District Court in the Northern District of Ohio granted final approval to a nationwide class action settlement negotiated by Goldenberg Schneider that provided damages to those whose claims were improperly denied and expanded the types of facilities now covered by these policies. The settlement value exceeded \$25 million.
- *Carnevale FLSA Class Action* – Goldenberg Schneider served as co-lead counsel on behalf of employees working for a large industrial company that alleged violations of federal and state labor laws through the systematic misclassification of managers and other employees as salaried professionals. This case successfully resolved with a common fund settlement in excess of \$5 million.
- *Lesley Conti and Tom Conti v. American Honda Motor Co., Inc.*, - Goldenberg Schneider filed a nationwide class action alleging that Honda knowingly sold its 2018-2019 Honda Odyssey, 2019-2020 Honda Passport, and 2019-2020 Honda Pilot vehicles with defective infotainment systems. The infotainment systems in these vehicles behave erratically, malfunctioning, freezing, and creating a safety hazard and distraction. The defect can cause safety-related systems (including backup camera functions) to fail. The court denied in large part Defendant’s motion to dismiss. Goldenberg Schneider and co-counsel Hagens Berman Sobol Shapiro recently negotiated a nationwide class settlement and anticipate filing for preliminary approval in February 2021.

JEFFREY S. GOLDENBERG

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LEGAL EXPERIENCE

PARTNER, GOLDBERG SCHNEIDER, L.P.A. (1998-present) - Civil trial and appellate practice in state and federal courts. Areas of practice include: class actions, consumer protection, data breach and privacy protection, product defect, long-term care insurance litigation, TCPA litigation, state attorney general cost recoupment including tobacco and pharmaceutical average wholesale price litigation, employment litigation including ERISA and wage and hour (FLSA), toxic torts, lead poisoning, antitrust, environmental, and commercial disputes.

ATTORNEY, DINSMORE & SHOHL (1994-1998) - General litigation practice with an emphasis on environmental litigation and compliance.

Bar Admissions/Licenses

State of Ohio (admitted since 1994)
United States Court of Appeals for the Second Circuit
United States Court of Appeals for the Sixth Circuit
United States Court of Appeals for the Ninth Circuit
United States District Court for the Southern District of Ohio
United States District Court for the Northern District of Ohio
United States District Court for the Northern District of Illinois

Activities/Memberships

Ohio Association for Justice
American Association for Justice
American Bar Association
Ohio State Bar Association
Cincinnati Bar Association
The Cincinnati Academy of Leadership for Lawyers
Volunteer Attorney for the Ohio Foreclosure Mediation Project
Supreme Court of Ohio Lawyer to Lawyer Mentoring Program
Pro Seniors Legal Volunteer
President, Board of Directors, Jewish National Fund – Ohio Valley Region
Board of Directors, University of Cincinnati Hillel Jewish Student Center

EDUCATION

Indiana University School of Law, Bloomington, Indiana, J.D. 1994
Indiana University School of Public and Environmental Affairs, M.S.E.S. 1994
Indiana University, B.A. Biology, 1988

JEFFREY S. GOLDENBERG
PARTNER, GOLDENBERG SCHNEIDER, LPA
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Mr. Goldenberg's practice includes class action and complex civil litigation with an emphasis on consumer protection. His practice areas include insurance coverage (including long-term care insurance), consumer fraud, data breach and privacy protection, product defects, overtime and wage and hour, ERISA, antitrust, toxic torts, and commercial disputes.

Mr. Goldenberg has served as lead and/or co-counsel in numerous multi-million dollar complex civil cases throughout the United States, including Continental Casualty Long Term Care Insurance Litigation, City of Cincinnati Pension Litigation, Ford Spark Plug Litigation, Enzyte Consumer Fraud Litigation, GEAE FLSA Litigation, VA Data Theft Litigation, Styrene Railway Car Litigation, Ford and Nissan Auto Defect Litigation, Clayton Home Sales Tax Litigation, MetLife FEGLI Litigation, Mercedes Diesel Emissions Fraud Litigation, MetLife Reduced Pay at 65 Litigation, FCA Chrysler 2.4 Liter Engine Oil Consumption Litigation, Honda Odyssey and Pilot Infotainment Defect Litigation, Acura RDX Infotainment System Litigation, Vitamix Blender Litigation, LeafFilter Gutter Litigation, and Oriented Strand Board Antitrust Litigation. Jeff also served as Special Counsel representing the State of Ohio against the Tobacco industry and was part of the litigation team that achieved an unprecedented \$9.86 billion settlement for Ohio taxpayers. He also served as lead counsel on the In re Consolidated Mortgage Satisfaction Cases involving twenty separate class actions. That litigation resulted in a significant Ohio Supreme Court decision defining key aspects of Ohio class action law.

Mr. Goldenberg earned three degrees from Indiana University: a Bachelor of Arts in Biology in 1988 (Phi Beta Kappa); a Master of Science in Environmental Science in 1994; and his Juris Doctor in 1994. Jeff has practiced in all levels of Ohio trial and appellate courts as well as other courts across the nation, and is admitted to practice in the State of Ohio and the United States District Court for the Southern and Northern Districts of Ohio, the Northern District of Illinois, and the United States Second, Sixth & Ninth Circuit Courts of Appeal. Jeff is a member of the American Association for Justice, the Ohio State Bar Association, and the Cincinnati Bar Association.